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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,418	05/04/2001	Randall D. Haggett	P07193US00/RFH	7802
881	7590	03/02/2004	EXAMINER	
STITES & HARBISON PLLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314			LE, HOA VAN	
			ART UNIT	PAPER NUMBER
			1752	

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/848,418

Applicant(s)

HAGGETT ET AL.

Examiner

Hoa V. Le

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1 as the main invention (and its dependent claims 2-7, 9-10 and 21-23 for the same reasons).

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☒ Other: See Continuation Sheet

Hoa V. Le  
Primary Examiner  
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Continuation of 10. Other: The second amendment filed on 13 February 2004 is objected to under 35 USC 132 as that in the first amendment filed on 15 December 2003. Please see the reason in the attachment under I(2)..

This is in response to Papers filed on 13 February 2004.

I. The record shows that Mr. Ross F. Hunt, Jr. in a personal interview on 12 February 2004 provides supports for the first amended embodiments to the main invention of claim 1 filed on 15 December 2003 at page 11, lines 20-25 of the instant application. Accordingly, the newly added embodiments are considered as shown and provided only. Therefore, the main invention claim 1 must be read, considered and searched with the embodiments on page 11, lines 20-25.

Mr. Hunt, Jr. point outs that the changing language in the main invention claim 1 with respect to:

(1) "to a controlled level and prevent cavitation" is equivalent to "to a controlled level to prevent cavitation" as disclosed on page 11, lines 21-22. The record shows that the equivalent and non-claimed language "to a controlled level to prevent cavitation" has not been considered or searched.

(2) The newly added "piston" is equivalent "cylinder". The record shows that this equivalent has not been considered or searched. The equated language "applying a . . pressure to a piston in the hydraulic cylinder" is not proper. If there is an equivalent, it should be read ---"applying a . . pressure to a piston or the hydraulic cylinder". Up on further reviewing and studying of the newly added embodiments of "applying a . . pressure to a piston in the hydraulic cylinder, the newly added "piston" is not equivalent to "cylinder". The newly added "piston" is a new matter. Accordingly, the newly added language "the hydraulic cylinder including a piston.."remain rejected 35 USC 112 and objected to under 35 USC 132 on the record.

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II. In Papers filed on 13 February 2004 applicant urges that there is no need to re-do a search for "a pressure" as now requested to be amended from "a predetermined pressure". Accordingly, they are not considered patentably different or distinct as urged. Therefore, the amendment filed on 13 February 2004 is entered and is the last one at this late state of the prosecution. Applicant is now notified for the record.

III. The record shows that the main invention of claim 1 has not been fully considered or searched for the equivalent language as newly pointed out on the interview dated on 12 February 2004 and/or is in proper format. Accordingly, no allowance would be proper or indicated on and for the record.

IV. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:00 AM to 4:00 PM on Monday through Thursday and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F. Huff can be reached on 571-272-1385. The fax phone numbers of the examiner is 571- 273-1332. Since there is a newly electronic filing procedure for all initial communicating papers and all responses to an Office action, the examiner fax phone number is not for use to receive any fax in response to an Office action. Applicant is requested and required

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to send all initial communicating papers and all response to Office action to a central paper or fax receiving center for an electronic scanning procedure.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306,

(2) mail with a central mail receiving address:

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Hoa V. Le  
Primary Examiner  
Art Unit 1752

HVL  
25 February 2004

HOA VAN LE  
PRIMARY EXAMINER  
*Hoa Van Le*